

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Miami Division)
Case No. 1:24-cv-22849-Civ-Ruiz

NERLYNE AUGUSTE,

Plaintiff,

vs.

DESH INCOME TAX &
IMMIGRATION SERVICES, LLC,
and MAGDALA NICLASSE,

Defendants.

**DEFENDANTS' MOTION FOR ADDITIONAL EXTENSION OF TIME TO
RESPOND TO PLAINTIFF'S MOTION FOR PARTIAL
JUDGMENT ON THE PLEADINGS**

Defendants, DESH INCOME TAX & IMMIGRATION SERVICES, LLC, and MAGDALA NICLASSE, in accordance with Federal Rule of Civil Procedure 6(b)(1)(A), hereby move for an additional extension of time, until and including December 11, 2024, to respond to Plaintiff's Motion for Partial Judgment on the Pleadings (As to Counts VI and VII of the Complaint) [Doc. 21], filed October 24, 2024,¹ and as grounds therefor state as follows:

1. Plaintiff's Complaint was served on Defendants on September 3, 2024, and Defendant's Answer and Affirmative Defenses [Doc. 15] were served October 1, 2024. The parties' Joint Scheduling Report [Doc. 17] was filed

¹ Counts VI and VII raise state law claims under § 68.065, Fla. Stat., based on two alleged NSF checks made out to Plaintiff from Defendants' bank account.

October 8, 2024, and the Court's Order Setting Jury Trial, Requiring Mediation, and Referring Certain Matters to Magistrate Judge [Doc. 18] was entered October 14, 2024.

2. Ten days after Defendants filed their Response to Plaintiff's Statement of Claim [Doc. 19] on October 14, 2024, Plaintiff filed her Motion for Partial Judgment on the Pleadings [Doc. 21] on October 24, 2024. On that same date, the Court entered a Settlement Conference Order [Doc. 22], scheduling a settlement conference before Magistrate Judge Louis for November 12, 2024 at 10:00 a.m. By Order entered November 1, 2024, the settlement conference with Magistrate Judge Louis was reset for November 13, 2024, at 1:30 p.m.

3. The parties attended the settlement conference with Magistrate Judge Louis at 1:00 p.m. on November 13, 2024, and although the case did not settle, the parties agreed to adjourn their discussions after two hours rather than declaring an impasse, so that they could confer with their respective clients about some of the key factual and legal issues that were discussed with Magistrate Judge Louis.

4. By Paperless Order entered November 14, 2024 [Doc. 30], the Court granted Defendants' request for an extension of time until December 6, 2024 to respond to Plaintiff's Motion for Partial Judgment on the Pleadings.

5. Defendants now seek an additional five-day extension of time for the response, until and including December 11, 2024, because their undersigned counsel picked up a respiratory infection from one of his kids over the

Thanksgiving Holliday weekend and has been at home recovering for most of the week of December 2nd. Based on counsel's unanticipated absence due to illness, Defendants seek a brief additional extension of time to respond to the Motion for Partial Judgment on the Pleadings.

6. In accordance with Federal Rule of Civil Procedure 6(b)(1)(a), the extension is sought in good faith and not for purposes of delay, Defendants have shown good cause for the requested extension, neither side will be prejudiced if the extension is granted and this motion is being filed prior to the expiration of the current deadline of December 6, 2024.

7. The undersigned emailed Plaintiff's counsel to ascertain whether there is any opposition to the additional extension of time, but did not receive a response before the motion was filed.

WHEEREFOR, Defendants respectfully request an additional five-day extension of time, until and including December 11, 2024, to respond to Plaintiff's Motion for Partial Judgment on the Pleadings (As to Counts VI and VII of the Complaint).

Respectfully submitted,

Christopher C. Sharp

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Counsel for Defendants

Dated: December 6, 2024

Certificate of Service

I hereby certify that on December 6, 2024, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: Christopher C. Sharp
Christopher C. Sharp, Esq.

SERVICE LIST
Case No. 1:24-cv-22849-Civ-Ruiz

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